

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)	
)	
v.)	I.D. No. 1112000553
)	
OMAR MITCHELL,)	
)	
Defendant.)	

Date Submitted: March 2, 2023

Date Decided: May 9, 2023

ORDER

Upon consideration of Defendant’s *pro se* Motion for Postconviction Relief¹ (“Motion”), Superior Court Criminal Rule 61, statutory and decisional law, and the record in this case, **IT APPEARS THAT:**

(1) On August 14, 2014, Defendant pled guilty to Murder Second Degree, three counts of Possession of a Firearm During the Commission of a Felony (“PFDCF”), two counts of Robbery First Degree, and Possession of a Firearm/Ammunition by a Person Prohibited (“PFBPP/PABPP”).²

(2) By Order dated January 23, 2015, effective December 1, 2011, Defendant was sentenced to a total of 47 years of unsuspended Level V time.³

¹ D.I. 120.

² D.I. 109.

³ D.I. 113. Defendant’s sentence is as follows: for Murder Second Degree, 28 years at Level V, suspended after 26 years at Level V for 2 years at Level IV DOC Discretion, followed by decreasing levels of supervision; for each count of PFDCF, 3 years at Level V, for each count of Robbery First Degree, 3 years at Level V, and for PFBPP/PABPP, 6 years at Level V. The Court

(3) On March 2, 2023, Defendant filed the instant motion for postconviction relief.⁴ In his Motion, Defendant asserts a claim of ineffective assistance of counsel, arguing that his trial attorneys violated the Delaware Rules of Professional Conduct by allowing him to enter a plea that was neither knowingly nor intelligently made.⁵

(4) Before addressing the merits of any claim for postconviction relief, the Court must first determine whether any of the procedural bars under Rule 61 are applicable.⁶ A motion under this Rule may be subject to summary dismissal if it is untimely, repetitive, previously adjudicated, or procedurally defaulted.⁷ The issue here is timeliness. Under Rule 61(i)(1), a motion must be filed no more than “one year after the judgment of conviction is final . . .”⁸ “A judgment of conviction is final . . . 30 days after the Superior Court imposes sentence.”⁹

(5) Here, the Court imposed its sentence on January 23, 2015,¹⁰ and it became final thirty days later, on February 23, 2015. Defendant filed the instant motion on March 2, 2023, more than five years later; accordingly, Defendant’s Motion is procedurally barred as untimely.

also ordered Defendant to pay \$5965.00 in restitution.

⁴ D.I. 120.

⁵ *Id.*

⁶ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

⁷ Super. Ct. Crim. R. 61(i)(1)-(4).

⁸ Super. Ct. Crim. R. 61(i)(1).

⁹ Super. Ct. Crim. R. 61(m).

¹⁰ D.I. 112.

NOW, THEREFORE, IT IS HEREBY ORDERED that Defendant's
Motion for Postconviction Relief is **SUMMARILY DISMISSED**.

/s/ Jan R. Jurden
Jan R. Jurden, President Judge

cc: Original to Prothonotary
Abigail E. Rodgers, DAG
Omar Mitchell (SBI# 00521134)